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Paper 151

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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Patent Interference No. 105,298

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SLOAN-KETTERING INSTITUTE FOR CANCER RESEARCH  
(6,242,469 B1 and 6,284,781 B1),  
Junior Party,

v.

GESELLSCHAFT FÜR BIOTECHNOLOGISCHE FORSCHUNG MBH  
(09/313,524),  
Senior Party.

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ENTERED: 12 July 2006

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NAGUMO, Administrative Patent Judge.

REDECLARATION - Bd.R. 203(c)

**A. Introduction**

A panel of the Board has determined that: GBF is not entitled to a patent to certain claims of U.S. application 09/313,524; GBF is accorded benefit for priority for Count 1 of its PCT and German applications; and that the designation of certain GBF and SK claims as corresponding or not corresponding to Count 1 should be changed. (Paper 150.)



1           The claims of the parties that correspond to Count 1 and  
2 that are involved in this interference are:

3           SK 469:    1-13

4           SK 781:    1, 2

5           GBF:       1-4, 15, 16, and 18-21<sup>1</sup>.

6           The claims of the parties that do NOT correspond to Count 1  
7 and that are NOT involved in this interference are:

8           SK 469:    14-22

9           SK 781:    3-5, 6-23, 24-26, 27-30, 31-33, 34-37

10          GBF:       none.

11          FURTHER ORDERED that all times for taking action remain  
12 in effect.

13          FURTHER ORDERED that times for taking action in the  
14 priority phase will be issued in due course.

15          FURTHER ORDERED that if there is a settlement, the  
16 attentions of the parties are directed to 35 U.S.C. § 135(c) and  
17 Bd.R. 205.

18		) BOARD OF
19	<u>/Mark Nagumo/</u>	) PATENT APPEALS
20	MARK NAGUMO	) AND
21	Administrative Patent Judge	) INTERFERENCES
22		

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<sup>1</sup> GBF claims 2, 4, and 19 are not patentable to GBF.

1 cc (via electronic mail):

2 For Gesellschaft fur Biotechnologische Forschung mbH: **Anthony M.**  
3 **Zupcic** and **Robert H. Fischer**, FITZPATRICK CELLA HARPER &  
4 SCINTO, of New York City, New York.

5 For Sloan-Kettering Institute for Cancer Research: **Richard L.**  
6 **DeLucia**, Kenyon & Kenyon, of New York, New York; and **Brenda**  
7 **H. Jarrell**, CHOATE, HALL & STEWART, of Boston,  
8 Massachusetts.

**Townes, Yolunda**

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**From:** Townes, Yolunda on behalf of Interference Trial Section  
**Sent:** Wednesday, July 12, 2006 7:43 AM  
**To:** 'Zupcic, Tony (FITZPATRICK CELLA)'; 'Fischer, Robert (FITZPATRICK CELLA)'; 'DeLucia, Richard (KENYON & KENYON)'; 'Jarrell, Brenda (CHOATE HALL)'  
**Subject:** Interference #105298\_150 (MN) - Decision-Interlocutory Motions-Bd.R. 125(b) and #105298\_151 (MN) - Redeclaration-Bd.R. 203(c)

Decision - Interlocutory Motions - Bd.R. 125(b) / Appendix - Board Exhibits

Redeclaration - Bd.R. 203(c)

7/12/06